

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable S. Phillip Lenski, Administrative Law Court Judge

Case No. 14-ALJ-04-0273-AP  
Appellate Case No. 2014-001592

Michael Richard Higgins, #247499 ..... Appellant

v.

South Carolina Department of Corrections ..... Respondent

**MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

Michael Richard Higgins  
#247499  
Lieber Correctional Institution WB-227  
Post Office Box 205  
Ridgeville, South Carolina 29472

**APPELLANT, *Pro se***

Other counsel of record:

Daniel J. Crooks, III, Esquire  
Office of General Counsel  
S.C. Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221-1787

Attorney for Respondent

Michael Richard Higgins, the *pro se* Appellant in the afore-captioned appeal from the Administrative Law Court (“ALC”), respectfully moves this Honorable Court, pursuant to Rule 240, South Carolina Appellate Court Rules, for leave to proceed in the afore-captioned appeal *in forma pauperis* where the Appellant is an indigent prisoner without the ability to pay the Notice of Appeal filing fee required by Rule 203, SCACR, and subsequent motion filing fees.

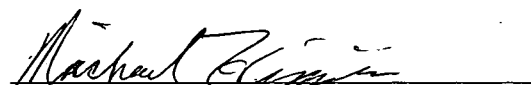
Appellant believes he is entitled to proceed without prepayment of the \$100 notice filing fee prescribed by Appellate Court Rules where Respondent Department of Corrections denied Appellant due process in a disciplinary proceeding, in violation of United States Supreme Court precedent; moved to dismiss the appeal of the final agency decision based on §1-23-600(D) (amended); and the appeal was dismissed by the ALC based on an interpretation of §1-23-600(D). Appellant submits that §1-23-600(D) as amended is unconstitutional on its face and as applied in light of Article I, §22 of the South Carolina Constitution where the Department and the ALC utilize §1-23-600(D) as a vehicle to unconstitutionally deprive judicial review of final agency decisions that deprive incarcerated South Carolina citizens judicial review of due process violations regardless of whether the loss of “good time credits” is involved (where since 1995 sentence-related credits are no longer applicable to any South Carolina prisoner sentenced thereafter).

Appellant submits that this Court enjoys the discretion to grant a motion to proceed *in forma pauperis* where it may be required by constitutional provisions. Where certain fundamental rights are involved, the United States Constitution requires that an indigent person be allowed access to the courts, *see Boddie v. Connecticut*, 401 U.S. 371.

### CONCLUSION

**WHEREFORE**, based on the foregoing, the Appellant prays this Honorable Court grant this Motion for leave to proceed *in forma pauperis* in the afore-captioned appeal.

Respectfully submitted,



Michael Richard Higgins

#247499

Lieber Correctional Institution WB-227

Post Office Box 205

Ridgeville, South Carolina 29472

**APPELLANT, *Pro se***

Dated January 6, 2015

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM THE ADMINISTRATIVE LAW COURT

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Honorable S. Phillip Lenski, Administrative Law Court Judge

SC Court of Appeals

Case No. 14-ALJ-04-0273-AP  
Appellate Case No. 2014-001592

Michael Richard Higgins, #247499 ..... Appellant

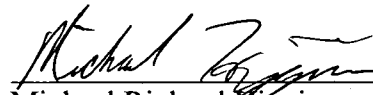
v.

South Carolina Department of Corrections ..... Respondent

**PROOF OF SERVICE**

The undersigned hereby certifies that he has served a true and correct copy of Appellant's Motion to Proceed In Forma Pauperis and Appellant's Reply to Respondent's Motion to Dismiss Appeal, or Alternatively to Summarily Affirm Pursuant to Rule 220(c), SCACR upon Respondent by placing a copy in the U.S. Mail, first-class postage affixed thereto, this 7 day of January, 2015, addressed as follows:

Daniel J. Crooks, III, Esq.  
Deputy General Counsel  
South Carolina Department of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787



Michael Richard Higgins  
#247499  
Lieber Correctional Institution WB-227  
Post Office Box 205  
Ridgeville, South Carolina 29472

**APPELLANT, *pro se***

Michael Richard Higgins  
#247499  
Lieber Correctional Institution WD-182  
P.O. Box 205  
Ridgeville, SC 29472-0205

January 6, 2015

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
Court of Appeals of South Carolina  
Post Office Box 11629  
Columbia, South Carolina 29211

**Re:** *Michael Richard Higgins, #247499, Appellant v. South Carolina Department of Corrections, Respondent*  
**Appellate Case No. 20 14-001592**


Dear Ms. Kitchings:

Please find enclosed the below documents for filing in the above-referenced appeal:

- 1) Appellant's Motion to Proceed *In Forma Pauperis*: original (unbound) and six (6) copies;
- 2) Appellant's Reply to Respondent's Motion to Dismiss Appeal, or Alternatively to Summarily Affirm Pursuant to Rule 220(c), SCACR: original (unbound) and six (6) copies;
- 3) Proof of Service;

Your assistance in this matter is sincerely appreciated.

Sincerely,

  
Michael Richard Higgins  
**APPELLANT, pro se**

Cc: Daniel J. Crooks, III, Esquire

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**SC Court of Appeals**

Inter-department

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**SC Court of Appeals**

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Court of Appeals of South Carolina  
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Michael Higgins W-13-227  
247499  
P.O. Box 205  
Ridgeway SC 29472

Inter-department

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JAN 12 2015  
SC Court of Appeals

The Honorable Jenny Abbott Kitchens  
Clerk of Court  
Court of Appeals of South Carolina  
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Columbia, South Carolina 29211